



MEMO ENDORSED
P.2

**THE CITY OF NEW YORK
LAW DEPARTMENT**

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BY HAND ONLY

Honorable Richard M. Berman
United States District Judge
Southern District of New York
500 Pearl Street, Room 650
New York, NY 10007

Re: Brown v. City of New York et al., 07 CV 6163 (RMB)

Dear District Judge Berman:

I am the Assistant Corporation Counsel in the Office of Michael A. Cardozo, Corporation Counsel for the City of New York assigned to the above-referenced case. I am writing with the consent of plaintiff's counsel, Kristen E. Finlon, Esq., to respectfully request (1) that the City be granted a sixty-day enlargement of time, from August 2, 2007 to October 1, 2007, to answer or otherwise respond to the complaint, and (2) that the initial conference currently scheduled for August 21, 2007 at 9:15 a.m., be adjourned to a later date. This is City's first request for an enlargement of time in this action.

The complaint alleges, *inter alia*, that plaintiff was subjected to excessive force, and that his due process rights were violated. In addition to the City of New York, plaintiff purports to name Correction Officers "Nancy," and "J.T." as defendants.¹ Before this office can adequately

¹ On information and belief, it does not appear that service of the summons and complaint in this action on the individual defendants has been completed. Without appearing on their behalf, I also respectfully request that the individually named defendants' time to answer or otherwise respond to the complaint also be extended until October 1, 2007.

respond to the complaint, we will need to conduct an investigation into the facts of the case. The enlargement of time will afford us the opportunity to investigate the matter.

Moreover, the enlargement will allow us to ascertain whether the individually named officers have been properly served. If service has been effectuated then, pursuant to Section 50-k of the New York General Municipal Law, this office must determine, based on a review of the case, whether we may represent the individually named defendants. The named defendants must each then decide whether he/she wishes to be represented by this office. If so, we must obtain his/her written authorization. Only after this procedure has been followed can we determine how to proceed in this case. See Mercurio v. The City of New York, et al., 758 F.2d 862, 854-65 (2d Cir. 1985) (quoting Williams v. City of New York, et al., 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985) (decision to represent individual defendants is made by the Corporation Counsel as set forth in state law)). In view of the foregoing, it is respectfully requested that the Court grant the within request extending the City's time to answer the complaint until October 1, 2007.

Additionally, the City respectfully requests that the initial pre-trial conference, scheduled for August 21, 2007 at 9:15 a.m., be adjourned until a date after defendants serve their answer or otherwise respond to the complaint. Moreover, the undersigned will be on vacation on the currently scheduled date of the conference. I have spoken to Kristen E. Finlon, Esq., and she has consented to adjourning the pre-trial conference until October 9, 2007, or another date convenient to the Court.

Thank you for your consideration in this regard.

Respectfully submitted,



Stuart Jacobs (SJ 8379)
Assistant Corporation Counsel
Special Federal Litigation Division

cc: BY FAX
 (212) 509-8088
 Kristen E. Finlon, Esq.
 Attorney for Plaintiff
 80 Pine Street, 32nd Floor
 New York, NY 10005

<u>APPLICATION GRANTED ON</u>	
<u>CONSENT OF THE PARTIES.</u>	
<u>THE RULE 16 CONFERENCE</u>	
<u>IS ADJOURNED UNTIL 10/9/07</u>	
<u>AT 11:45 A.M.</u>	
<u>SO ORDERED:</u>	
Date:	<u>8/3/07</u>
<u>Richard M. Berman</u>	
Richard M. Berman, U.S.D.J.	